**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE KURIAN JOSEPH**
**&**
**THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID**

**WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929**

**LA.App.No. 1694 of 2002**
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**LAR.151/1999 of SUB COURT, KOZHIKODE**
**.....**

**APPELLANT/CLAIMANT:**
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**NARANGALI SUDARSAN,**
**S/O. NARANGALI MADHAVAN,**
**NELLICODE AMSOM DESOM,**
**KOZHIKODE.**

**BY ADV. SRI. P.V. KUNHIKRISHNAN**

**RESPONDENT/RESPONDENT:**
**----------**

**THE SPECIAL TAHSILDAR (LA),**
**KOZHIKODE.**

**BY GOVERNMENT PLEADER SMT.K.R. DEEPA.**

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 24/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**KURIAN JOSEPH & HARUN-UL-RASHID, JJ.**

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**L.A.A. NO. 1694 OF 2002**

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**Dated this the 24th day of October, 2007.**

**J U D G M E N T**

**Kurian Joseph, J.**

This is an appeal filed against the judgment and decree in L.A.R. No. 151/1999 on the file of the Sub Court, Kozhikode. Acquisition is for the purpose of widening of Pottammal-Manathalathazham road. The total extent involved is only 5.65 cents.

2. The reference court fixed land value at the rate of Rs. 25,000/- per cent for garden land and Rs. 15,000/- per cent for wet land. The appellant claims enhancement at the rate of Rs. 15,000/- per cent.

3. Evidence was adduced claiming similarity with the properties involved in Exhibits A1 and A2. The reference court rightly found that in the absence of any evidence to prove that the properties involved in Exhibits A1 and A2 are similar and similarly situated, claimant is not eligible for any enhancement.

Though the Advocate Commissioner had reported in Exhibit C1 that the properties involved in the reference are of higher value when compared to A1 and A2 properties, there is nothing available in the report to substantiate such an observation. The comparative advantages and disadvantages are not discussed. The Commissioner also has not taken any pains to grant separate value for the garden land and the wet land. For all the above reasons, we are of the view that the reference court is justified in rejecting the report of the Advocate Commissioner since the data and report furnished are not reliable.

4. Learned counsel for the appellant mainly contended on the commission report. As already noted by us above, the report cannot be relied upon for fixing the land value at the rates claimed by the appellant, in the absence of independent evidence to establish that the acquired property is similar and similarly situated as A1 and A2 properties and that the same would fetch value at the rates suggested by the Advocate Commissioner, since the report does not give any supporting materials or data for enabling the Commissioner to arrive at such a value.

In the above circumstances, we do not find any merit in the appeal and it is accordingly dismissed.

**KURIAN JOSEPH**
**JUDGE**

**HARUN-UL-RASHID**
**JUDGE**

smp

**KURIAN JOSEPH &**
**HARUN-UL-RASHID, JJ.**

**L.A.A. NO. 1694 OF 2002**

**J U D G M E N T**

**24.10.2007**